

EXHIBIT A

<p>1 ALBRECHT</p> <p>2 THE WITNESS: It depends on what</p> <p>3 you define as "cause." It was associated</p> <p>4 with.</p> <p>5 BY MR. COREY GORDON:</p> <p>6 Q. In your professional experience as a</p> <p>7 statistician dealing in the field of medical</p> <p>8 and biological issues, is there any</p> <p>9 difference to you between something that's</p> <p>10 associated with and something that causes?</p> <p>11 MR. ASSAAD: Objection to form.</p> <p>12 THE WITNESS: Yes, there is a</p> <p>13 difference between association and cause, and</p> <p>14 causation.</p> <p>15 BY MR. COREY GORDON:</p> <p>16 Q. And you were one of the coauthors of the</p> <p>17 McGovern study that's being characterized</p> <p>18 here. Do you agree with the characterization</p> <p>19 that your study found that forced-air warming</p> <p>20 caused a 3.8 times increase in deep joint</p> <p>21 infection rates?</p> <p>22 MR. ASSAAD: Objection to form.</p> <p>23 THE WITNESS: I would agree that</p> <p>24 it's associated with the 3.8 times increase,</p> <p>25 that's what the study would say.</p>	<p>1 ALBRECHT</p> <p>2 BY MR. COREY GORDON:</p> <p>3 Q. So you would -- you would -- you would agree,</p> <p>4 then, that you did not conclude or show that</p> <p>5 it caused a 3.8 times increase in deep joint</p> <p>6 infection rates?</p> <p>7 MR. ASSAAD: Objection to form.</p> <p>8 THE WITNESS: We did not prove</p> <p>9 causation.</p> <p>10 BY MR. COREY GORDON:</p> <p>11 Q. So -- and you would agree that this statement</p> <p>12 by Dr. Augustine is a mischaracterization of</p> <p>13 the study on which you were a coauthor?</p> <p>14 MR. ASSAAD: Objection to form.</p> <p>15 BY MR. COREY GORDON:</p> <p>16 Q. Correct?</p> <p>17 A. It's speculation, because it didn't use the</p> <p>18 exact word "causation." If I were to look</p> <p>19 for association versus causation, I'd need to</p> <p>20 have that word, if you want me to be frank</p> <p>21 with you on statistical terms.</p> <p>22 Q. I just want you to be frank with me on</p> <p>23 whether you think that Dr. Augustine</p> <p>24 accurately characterized your study when he</p> <p>25 said, "Forced-air warming was shown to cause</p>
<p>1 Page 281</p> <p>2 ALBRECHT</p> <p>3 a 3.8 times increase in deep joint infection</p> <p>4 rates."</p> <p>5 MR. ASSAAD: Objection to form,</p> <p>6 asked and answered.</p> <p>7 BY MR. COREY GORDON:</p> <p>8 Q. Is that a correct characterization or not?</p> <p>9 MR. ASSAAD: Same objection.</p> <p>10 THE WITNESS: It depends on the</p> <p>11 context. It's not causation, it's</p> <p>12 association.</p> <p>13 MR. COREY GORDON: Okay.</p> <p>14 BY MR. COREY GORDON:</p> <p>15 Q. I can't give you any more context on what</p> <p>16 Dr. Augustine's words are here. "Forced-air</p> <p>17 warming was shown to cause a 3.8 times</p> <p>18 increase in deep joint infection rates," is</p> <p>19 that, in your view as one of the coauthors of</p> <p>20 the study, accurate or not accurate?</p> <p>21 MR. ASSAAD: Objection to the</p> <p>22 form, asked and answered. Object to the</p> <p>23 preamble.</p> <p>24 MR. COREY GORDON: But you've got</p> <p>25 to move to strike it, Gabriel.</p> <p>MR. ASSAAD: I'm not moving to</p>	<p>1 Page 282</p> <p>2 ALBRECHT</p> <p>3 strike it, I'm just objecting to it.</p> <p>4 THE WITNESS: "More importantly,</p> <p>5 forced-air warming was shown to associate</p> <p>6 with a 3.8 times increase in deep joint</p> <p>7 infection rates," that I would agree with.</p> <p>8 With what's written there, it seems a</p> <p>9 little -- I would have to say probably not,</p> <p>10 no.</p> <p>11 BY MR. COREY GORDON:</p> <p>12 Q. And -- and, in fact, you recall the exercise</p> <p>13 we went through at some length in your first</p> <p>14 deposition?</p> <p>15 A. Oh, yes.</p> <p>16 Q. The association between forced-air warming</p> <p>17 and infection rates maybe would not be very</p> <p>18 strong if you factored out the deep vein</p> <p>19 thrombosis treatment change?</p> <p>20 A. If you had reason to believe --</p> <p>21 MR. ASSAAD: Objection; asked and</p> <p>22 answered.</p> <p>23 THE WITNESS: If you had reason to</p> <p>24 believe that the standard of care was lowered</p> <p>25 for those patients in those areas, maybe. So</p> <p>it wasn't no thrombosis agent versus</p>

<p>1 ALBRECHT</p> <p>2 thrombosis agent, it was different kinds. It</p> <p>3 was not no antibiotic versus some antibiotic,</p> <p>4 it was different types.</p> <p>5 BY MR. COREY GORDON:</p> <p>6 Q. Well, you recall that we went through at some</p> <p>7 length at your last deposition and compared a</p> <p>8 period of time when the -- when the</p> <p>9 Bair Hugger forced-air warming unit was used</p> <p>10 with the exact same antibiotic regimen and</p> <p>11 the exact same anti-thrombosis --</p> <p>12 thromboembolism medication --</p> <p>13 A. Yup.</p> <p>14 Q. -- as the HotDog only time period, right?</p> <p>15 A. Yes.</p> <p>16 Q. And you agreed that there was no difference</p> <p>17 in the rate of infection?</p> <p>18 MR. ASSAAD: Objection to form,</p> <p>19 misstates prior testimony.</p> <p>20 THE WITNESS: For those periods,</p> <p>21 yes.</p> <p>22 BY MR. COREY GORDON:</p> <p>23 Q. And, in fact, there was a huge difference</p> <p>24 when there was a different drug used for</p> <p>25 prevention of deep vein thrombosis during the</p>	<p>1 ALBRECHT</p> <p>2 Bair Hugger only period?</p> <p>3 A. I don't know if it was due to that, but it</p> <p>4 was associated with that period where it was</p> <p>5 the same prophylaxis regimen, okay, on both</p> <p>6 terms there wasn't a difference, that's all I</p> <p>7 can say on the data.</p> <p>8 Q. And the period where the -- there was a</p> <p>9 seven-month period where the hospital had</p> <p>10 switched to a different drug, Xarelto, and</p> <p>11 the infection rates during that period were</p> <p>12 significantly higher than they were before</p> <p>13 and after --</p> <p>14 MR. ASSAAD: Objection to the</p> <p>15 form.</p> <p>16 BY MR. COREY GORDON:</p> <p>17 Q. -- right?</p> <p>18 A. I don't know about before and after, but the</p> <p>19 period of higher infection rates were</p> <p>20 associated with the use of that drug you talk</p> <p>21 about, Xarelto.</p> <p>22 Q. Okay.</p> <p>23 A. Not caused, but associated.</p> <p>24 Q. Right. Okay. Now, who were the -- who would</p> <p>25 you describe as the principal people involved</p>
<p>1 Page 285</p> <p>2 ALBRECHT</p> <p>3 in the McGovern study, Exhibit 8? There are</p> <p>4 seven authors listed.</p> <p>5 A. Let me pull it up here. (Reviews document.)</p> <p>6 Everybody was heavily involved in this one.</p> <p>7 Q. Heavily, okay. Did Dr. Belani go to England?</p> <p>8 A. He did not.</p> <p>9 Q. Okay. Did Dr. Nachtsheim go to England?</p> <p>10 A. He did not.</p> <p>11 Q. Did Dr. Nachtsheim even know about the study</p> <p>12 when it was being done?</p> <p>13 A. Dr. Nachtsheim commented on the statistics of</p> <p>14 the study and reviewed them.</p> <p>15 Q. Yeah, after it was all done and written up,</p> <p>16 right?</p> <p>17 A. You'll have to define what you mean by "heavy</p> <p>18 involvement." Dr. Nachtsheim would be for</p> <p>19 statistical reasons. Different authors</p> <p>20 provide different perspectives.</p> <p>21 Q. Did Dr. Nachtsheim have anything to do with</p> <p>22 the study -- design of the study before it</p> <p>23 was commenced?</p> <p>24 A. I'm unsure.</p> <p>25 Q. Okay. Did Dr. Belani have anything to do</p> <p>with the design of the study before it was</p>	<p>1 Page 286</p> <p>2 ALBRECHT</p> <p>3 commenced?</p> <p>4 A. I don't recall.</p> <p>5 Q. How about Dr. Partington, what was his role?</p> <p>6 A. He was a surgeon in the UK and was heavily</p> <p>7 involved in the manuscript revision process,</p> <p>8 if I recall right.</p> <p>9 Q. When you say, "Heavily involved," what did he</p> <p>10 do?</p> <p>11 A. Himself, Paul and Mike went through -- or I</p> <p>12 should say Dr. Reed, Dr. McGovern and</p> <p>13 Dr. Partington and Dr. Carluke read through</p> <p>14 the study and worked through the clinical</p> <p>15 messaging and what the appropriate themes</p> <p>16 were based on the data.</p> <p>17 Q. Okay. Who were the people actually in the</p> <p>18 operating room at -- where the bubble part of</p> <p>19 the study was done?</p> <p>20 A. Sure.</p> <p>21 MR. ASSAAD: Objection to the</p> <p>22 form.</p> <p>23 THE WITNESS: It was myself,</p> <p>24 Dr. McGovern, Dr. Reed, I think that</p> <p>25 Dr. Partington and Carluke were present for</p> <p>part of it, if I remember.</p>